

HOUSE BILL REPORT

HB 1830

As Reported by House Committee On:
State Government Operations & Accountability

Title: An act relating to alternative public works contracting procedures.

Brief Description: Regarding alternative public works contracting procedures.

Sponsors: Representatives Hunt, Jarrett, Morrell, McDonald, Pettigrew, Hasegawa, Eickmeyer, Clibborn, Simpson and Ericks.

Brief History:

Committee Activity:

State Government Operations & Accountability: 3/1/05, 3/2/05 [DPS].

Brief Summary of Substitute Bill

- Establishes an independent oversight committee to monitor and evaluate the use of the traditional and alternative public works contracting procedures.

HOUSE COMMITTEE ON STATE GOVERNMENT OPERATIONS & ACCOUNTABILITY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Haigh, Chair; Green, Vice Chair; Nixon, Ranking Minority Member; Clements, Assistant Ranking Minority Member; Hunt, McDermott, Schindler and Sump.

Minority Report: Do not pass. Signed by 1 member: Representative Miloscia.

Staff: Marsha Reilly (786-7135).

Background:

Most public works projects are completed using the design-bid-build procedure, in which the architectural design phase of a project is separate from the construction phase. Under this process, an architectural firm is retained to design the facility and prepare construction documents. After the detailed design and construction documents are complete, the construction phase of the project is put out for competitive bid. A construction contract is then awarded to the lowest responsible bidder.

Alternative forms of public works were first used on a very limited basis and then adopted in statute in 1994 for certain pilot projects. These alternative procedures included a design-build

process and a general contractor/construction manager (GC/CM) process and may be used on projects costing in excess of \$10 million.

The design-build procedure is a multi-step competitive process to award a contract to a single firm that agrees to both design and build a public facility that meets specific criteria. The contract is awarded following a public request of proposals for design-build services. Following extensive evaluation of the proposals, the contract is awarded to the firm that submits the best and final proposal with the lowest price.

The GC/CM method employs the services of a project management firm that bears significant responsibility and risk in the contracting process. The government agency contracts with an architectural and engineering firm to design the facility and, early in the project, also contracts with a GC/CM firm to assist in the design of the facility, manage the construction of the facility, act as the general contractor, and guarantee that the facility will be built within budget. When the plans and specifications for a project phase are complete, the GC/CM firm subcontracts with construction firms to construct that phase. Initial selection of GC/CM finalists is based on the qualifications and experience of the firm.

Under the 1994 legislation, a temporary independent oversight committee was created to review the utilization of design-build and GC/CM. The committee was composed of representatives from state and local agencies, the construction and design industries, labor organizations, and four members of the Legislature, one from each caucus. The committee report, issued on January 21, 1997, recommended that the authorization to use the alternative methods on a pilot basis be extended to June 30, 2001, and that certain modifications be made to the alternative contracting procedures to increase the efficiency and effectiveness of the methods. Those recommendations were adopted in 1997 and, also that year, the board was eliminated. In 2001, the authorization to use alternative public works procedures again was extended to June 30, 2007.

The 2003-05 Capital Budget directed the Joint Legislative Audit and Review Committee (JLARC) to study the use of GC/CM contracting procedures in major public works projects. The study consists of a review of past and current projects constructed using GC/CM contracting procedures to determine the feasibility of assessing the public benefits and costs. The final report will be presented in June 2005.

Summary of Substitute Bill:

An independent oversight committee is established to monitor and evaluate the use of traditional and alternative public works contracting procedures and evaluate potential future use of other alternative contracting procedures. The committee will also provide a forum in which best practices and concerns about alternative public works contracting can be discussed.

Committee membership includes two members of the House of Representatives, one from each major caucus appointed by the Speaker of the House of Representatives, and two

members from the Senate, one from each major caucus appointed by the President of the Senate. The Governor shall appoint representatives from the appropriate segments of the construction, contracting, subcontracting, and design industries; representatives from labor organizations; representatives from public bodies authorized to use alternative public works contracting methods; a representative from a local government authorized to use alternative public works contracting methods; a representative from the Office of Minority and Women's Business Enterprises; and a representative from the Office of Financial Management (OFM).

The committee will meet at least quarterly beginning after July 1, 2005. The OFM shall provide staff to support the committee.

The oversight committee, in consultation with the OFM, will develop standardized statewide performance indicators and benchmarks for all major public works projects. At a minimum, the measures should allow basic comparisons of project performance by type, scope, cost, schedule, quality, and contracting procedure.

Public bodies using alternative contracting procedures are required to provide information requested by the committee in a timely manner.

Beginning December 10, 2005, and every year thereafter, the committee shall report on the use of alternative public works contracting methods to the appropriate standing committees of the Legislature.

Substitute Bill Compared to Original Bill:

The substitute bill deletes the provision to authorize the use of alternative public works contracting procedures for a city with a population of less than 70,000 and whose combined general fund, special revenue, debt service, capital projects, and enterprise funds revenues exceed \$60 million. The substitute bill creates an oversight committee to monitor and evaluate the use of alternative public works procedures.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The City of Bremerton supports this bill. Stated benefits include a single source of responsibility, a central point of contact, and changes can be made early in the process. Bremerton has a population of 40,000 and does not qualify for alternative public works contracting except for projects with a public facilities district. The City of Bremerton is economically depressed and efforts have been made to revitalize the city. Just over three years ago, Bremerton was able to utilize a public/private partnership using alternative public works procedures for a conference center project. The city would not have been able to build this project without using alternative public works because of the complexity of the project.

The city needs these tools to develop future projects. The cities of Puyallup and Renton support the bill. These cities, also, do not meet the population criteria. Today, the array of complex infrastructure projects undertaken successfully indicates that the population limits are no longer applicable. This would allow cities flexibility. The JLARC study should not be the reason to hold on this bill. Problems as well as success stories will be reported. Puyallup has a major downtown revitalization project planned and using alternative procedures would allow for more effective use of funds. Jurisdictions with a good track record should be able to use these procedures. Within the Association of Washington Cities, discussion occurs annually about the expansion of alternative public works procedures. If it is to be expanded, the criteria need to be in place regarding size and complexity of projects. Cities that would be included have a good history of completing capital facilities projects.

Testimony Against: The Carpenters Union is opposed to the bill. In looking for a more effective way to use taxpayers money, alternative public works should not be expanded until the JLARC study is ready. The Mechanical and Electrical Contractors oppose the bill at this time. The Alternative Public Works Oversight Committee worked well for a number of years. Over the past few years, problems with procedures have cost taxpayers more money. It would be a good thing to reform the oversight committee. Taxpayers are not getting the return on their dollars in the cost per square foot. This needs more serious study. The Contractors Bonding and Insurance Company opposes the bill. The Legislature has heard testimony on the pros and cons of using alternative public works. It is inappropriate to expand these procedures while waiting for the JLARC study. While we support the use of GC/CM for sophisticated projects, there have been problems on projects that are not as complicated. Using these procedures causes a reduction in competition and it is unclear how much money is saved under design-build. Use of alternative procedures was intended to be for exceptions that speak to sophistication and complexity.

Persons Testifying: (In support) Representative Hunt, prime sponsor; Roger Lubovich, City of Bremerton; Doug Levy, Cities of Puyallup and Renton; and Ashley Probart, Association of Washington Cities.

(Opposed) Mel Sorenson, Contractors Bonding and Insurance Company; Ed Triezenberg, Pacific Northwest Regional Council of Carpenters; Larry Stevens, Mechanical Contractors Association of Western Washington and National Electrical Contractors Association; and Michael Transue, Associated General Contractors.

Persons Signed In To Testify But Not Testifying: None.